



**Judge Virginia Kendall**

219 South Dearborn Street  
Chicago, Illinois 60604

Courtroom 2319  
Chambers 2378

Telephone : (312) 435-5692  
Web Site: <http://www.ilnd.uscourts.gov>

**JUDGE KENDALL'S STANDING ORDER FOR PATENT  
CLAIM CONSTRUCTION PROCEEDINGS**

Unless ordered otherwise, the following instructions shall apply to all patent claim construction proceedings before Judge Kendall.

1. At a date set by Judge Kendall, the parties shall exchange a preliminary claim chart of proposed terms for the Court to construe, and their proposed constructions for those terms, including the identity of any claim element which the party contends should be governed by 35 U.S.C. § 112(6).
2. Within two weeks of the exchange of the preliminary claim construction chart, the parties shall **meet** and confer regarding the claim terms and determine which claim terms are in dispute. Subsequent to this meeting, at a date set by Judge Kendall, the parties shall submit a joint claim construction chart identifying all relevant claim terms. The joint chart shall set forth all agreed constructions and all claim terms that remain in dispute and require construction by the court.
  - A. For each disputed claim term, the joint chart shall identify the following:
    1. The disputed term;
    2. Each party's proposed construction of each disputed claim term;
    3. For any disputed term that a party contends invokes 35 U.S.C. § 112(6), the party must indicate this contention in its proposed construction for that term.

- B. Each party's proposed construction of the disputed claims as set forth in the joint chart is binding, absent leave of court, including whether any term invokes 35 U.S.C. § 112(6). If the parties subsequently agree on the construction of a disputed claim, they may amend their position.
- 3. Twenty-one days after filing the joint claim construction chart, the patentee must file its opening claim construction brief and supporting evidence. For each element the patentee claims is governed by 35 U.S.C. § 112(6), the opening claim construction brief must include the claimed function of that element and must identify the structure(s), act(s), or material(s) corresponding to that element.
  - A. The parties must file one joint appendix with the patentee's opening brief with the patent(s) in dispute and the prosecution history for each patent. The prosecution history must be paginated and the parties should include the appropriate page number when citing it. The patentee may also file a separate appendix with other supporting materials.
  - B. Opening briefs are limited to 25 pages.
- 4. The accused infringer must file its responsive brief and supporting evidence twenty-one days after the opening brief is served. A responsive brief is limited to 25 pages. For each element the accused infringer claims is governed by 35 U.S.C. § 112(6), the responsive brief must include the claimed function of that element and must identify the structure(s), act(s), or material(s) corresponding to that element.
- 5. The patentee may file a reply brief and supporting evidence directly rebutting the opposing party's response fourteen days after the responsive brief is served. Reply briefs are limited to 15 pages.
- 6. Seven days after the patentee files its reply brief, the parties must file an amended, final joint claim construction chart identifying the remaining disputed claim terms and each party's proposed construction, and any agreed upon constructions.
- 7. Two weeks before the claim construction hearing, the parties must file a Joint Pre-hearing Statement with the following information:
  - A. The anticipated length of time anticipated for a claim construction hearing;
  - B. The identity of any witnesses each party intends to call at such a hearing; and
  - C. A brief summary of the nature of each witness's testimony, and the anticipated length of such testimony.

8. If a party intends to call as a witness and/or submit affidavits of experts, a statement of the expert's qualifications shall be submitted as an additional attachment to any memorandum submitted.
9. Each party shall prepare five bound volumes of exhibits: one for the court, one for each party, one to be kept on the witness stand, and one for the Judge's court reporter.
10. Judge Kendall requires courtesy copies of all filings, including exhibits, in connection with claim construction in patent cases.